

**REMARKS**

Claims 1-4, 6, 11, and 14-16 are currently pending in this application. By this response to the non-final Office Action dated March 5, 2010, claims 1, 2, 11, and 14 are amended. Support for the amendments is found in, for example, FIG.1 and paragraph [0018] of U.S. Patent App. Pub. No. 2006/0153290 (the USPTO publication of the present application). Favorable reconsideration of the application in light of the foregoing amendments and following comments is respectfully solicited.

**Rejection Under 35 U.S.C. § 101**

In section 3 of the Office Action, claims 1 and 6 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse.

Amended independent claim 1 recites, *inter alia*, “storing the user data and main data in a data buffer” and “moving the stored user data.” Applicants respectfully submit the recited use of a “data buffer” is use of a particular machine that satisfies the machine-or-transformation test for patent eligibility of a process set forth in the *Bilski* opinion released by the Court of Appeals for the Federal Circuit. Further, Applicants respectfully submit that the machine-or-transformation test (which is under review by the Supreme Court) is improperly narrow, and conflicts with the broad standard of patent eligibility under Section 101 repeatedly articulated by the Supreme Court. Thus, for at least these reasons, Applicants respectfully submit the claims comply with Section 101, and request withdrawal of the rejection.

Rejection Under 35 U.S.C. § 112, Second Paragraph

In section 5 of the Office Action, claim 1 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse.

Specifically, the Office Action indicates “[t]he term ‘effected by the moving’ is vague and indefinite.” Claim 1 is amended to instead recite the phrase, as recited in independent claim 11, “effected by [[the]] moving the user data.” Applicants respectfully submit that amended claim 1 complies with Section 112, and request withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a)

In section 9 of the Office Action, claims 1-4, 6, 11, and 14-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,671,323 (Tahara) in view of U.S. Patent No. 6,075,900 (Sakazawa) and U.S. Patent App. Pub. No. 2002/0054636 (Yoneyama). Applicants respectfully traverse.

Independent claims 1 and 11 each relate, *inter alia*, to the use of “a parameter which determines the allowable range of data amount in the input code” and “changing the parameter to reflect the change in code size effected by moving the user data.”

As acknowledged at page 9, lines 14-17 of the Office Action, Tahara and Sakazawa do not render obvious “changing the parameter,” as recited in claims 1 and 11. Seeking to bridge this gap between the claims and the cited art, the Office Action asserts Yoneyama discloses “changing the parameter” as recited in the claims. Office Action, page 9. However, Yoneyama fails to bridge the acknowledged gap between claims 1 and 11 and the cited art, as it fails to disclose or render obvious use of a parameter according to the claimed subject matter.

According to Yoneyama, paragraph [0050], “[t]he parameter setting means 102 changes the coding conditions.” Therefore, the parameter in Yoneyama’s system is for changing the coding conditions, *e.g.*, a quantization parameter. Although when the quantization parameter is changed an amount of code is increased or decreased as a result, the quantization parameter is a parameter for adjusting image qualities, and is not “a parameter which determines the allowable range of data amount in the input code,” as recited in independent claims 1 and 11. Accordingly, Yoneyama does not disclose or render obvious “changing the parameter to reflect the change in code size effected by moving the user data,” as recited in claims 1 and 11.

For at least the above reasons, Yoneyama does not bridge the gaps acknowledged by the Office Action between independent claims 1 and 11 and the cited art. Thus, Applicants respectfully request withdrawal of the rejection of independent claims 1 and 11, and claims 2-4, 6, and 14-16 which depend thereon.

#### Conclusion


Accordingly, it is urged that the application, as now amended, is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

**Application No.: 10/541,221**

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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